

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,
Plaintiff,
v.
LONG VAN NGUYEN,
Defendant.

Case No. CR12-212RSL

ORDER GRANTING IN PART
MOTION TO COMPEL

I. INTRODUCTION

This matter comes before the Court on defendant Long Van Nguyen's "First Memorandum and Motion to Compel Discovery" (Dkt. # 41). Defendant seeks an order compelling the government to produce the phone numbers and addresses of the civilian witnesses it may call at trial. Having considered the motion, the government's response, and the remainder of the record, the Court finds as follows:¹

II. DISCUSSION

A. Background

Defendant is charged with conspiracy to kill persons in a foreign country in violation of 18 U.S.C. § 956(a)(1) and solicitation to commit a crime of violence in violation of 18 U.S.C. § 373.

¹The Court finds this matter suitable for decision on the papers submitted. Defendant's request for oral argument is therefore DENIED.

1 In March 2012, the government began investigating defendant based on a tip
2 from a confidential informant that defendant was planning to hire people to kill his
3 common-law wife's relatives in Vietnam. Defendant was arrested in July 2012, near
4 Tacoma, Washington.

5 The government has disclosed the names of 32 witnesses that it may call at trial.
6 Dkt. # 41-2. Sixteen of these potential witnesses are relatives or friends of defendant or
7 his wife. The government has informed defendant that it does not intend to release these
8 witnesses' contact information.

9 **B. Analysis**

10 Defendant argues that the unusual circumstances of this case and his right to
11 effective assistance of counsel require the disclosure of witnesses' addresses and phone
12 numbers. Dkt. # 41 at 3. Even though defendant has the names of the potential
13 witnesses, defendant contends that the prevalence of the names "Pham" and "Nguyen"
14 in Vietnam increases the difficulty of trying to find contact information for these
15 witnesses. Id. at 4.

16 In a non-capital criminal case, there is no general right to discovery.
17 Weatherford v. Bursey, 429 U.S. 545, 559 (1977). The district court has discretion to
18 grant or deny a defendant's request for the names and addresses of witnesses the
19 government intends to call at trial where the disclosure of that information may
20 endanger the witnesses. United States v. Clardy, 540 F.2d 439, 442 (1976). Although
21 defendant is charged with violent crimes, the Court finds that a properly worded
22 protective order will decrease concerns for the witnesses' safety. Denying defendant's
23 motion would deny defendant the opportunity to conduct a meaningful investigation of
24 the crimes with which he is charged.

25 Based on the defendant's indication that he would agree to a protective order, the
26 Court GRANTS IN PART defendant's motion. The disclosure of the names, addresses,

1 and phone numbers of the witnesses shall be limited to the attorneys and their
2 investigator only and not to the defendant or anyone else. The parties are hereby
3 ordered to submit a stipulated protective order regarding the addresses and telephone
4 numbers of the witnesses identified in the government's list of potential trial witnesses.
5 After entry of this protective order, the government shall disclose the names, addresses
6 and telephone numbers of the witnesses identified as potential witnesses in its February
7 8, 2013, letter pursuant to the terms of the protective order and this order.

8 **III. CONCLUSION**

9 For all of the foregoing reasons, the Court GRANTS IN PART defendant's
10 motion to compel discovery (Dkt. # 41).

11 DATED this 31st day of May, 2013.

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14 Robert S. Lasnik
15 United States District Judge
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